

Dockets, Rm.
222

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

PP 93-253

8 SEP 1994

IN REPLY REFER TO:

7310-09/1700A

RECEIVED

SEP 13 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

DOCKET FILE COPY ORIGINAL

Honorable Sam Nunn
United States Senator
75 Spring Street, S.W.
Suite 1700
Atlanta, Georgia 30303

Dear Senator Nunn:

This letter is in response to your letter of June 15, 1994, regarding the letter of your constituent, Mr. Robert E. Gourlay. His letter specifically addressed the need to ensure that licenses for broadband Personal Communications Services (PCS) are disseminated among a wide variety of applicants, including small businesses, rural telephone companies, and businesses owned by minorities and women.

At its June 29, 1994 agenda meeting, the Commission adopted service-specific rules for broadband PCS, including a "Competitive Opportunity Plan" that establishes two "entrepreneurs' blocks" for smaller businesses. These blocks together consist of 986 licenses, which will be authorized for operations within Basic Trading Areas (BTAs). Eligibility for these blocks will be limited in order to safeguard for small businesses, including those owned by minorities and women, the ability to participate in the auctions without competition from the largest of companies. Within the entrepreneurial blocks, the Commission established a range of provisions to address the most challenging barrier to entry by designated entities -- that is, access to capital. These provisions include bidding credits, installment payment plans, tax certificates and relaxed attribution standards for small businesses and businesses owned by minorities and women. For example, within the entrepreneurs' blocks, businesses with less than \$40 million in gross revenues for the three preceding years (including revenues of their affiliates) are eligible for bidding credits of 10 percent, and small businesses owned by women or minorities are eligible for bidding credits of 25 percent. In addition, bidders in the entrepreneurs' blocks will receive a 25 percent discount from the ordinary upfront payment. Furthermore, most winning bidders within the entrepreneurs' blocks may pay for their licenses in installments, thus deferring payments of principal on their debt to the government. In addition, the Commission recently proposed a similar Competitive Opportunity Plan for the auctions that will award certain regional narrowband PCS licenses.

The Commission also established rules permitting rural telephone companies to obtain broadband PCS licenses that are geographically partitioned from larger PCS service areas. Rural telephone companies: (1) may form bidding consortia to participate in auctions, and then partition the licenses won among consortia participants, or (2) may acquire partitioned broadband PCS licenses from other licensees through private negotiation and agreement either before or after the auction.

The Commission has sought to implement the Congressional intent of Section 309(j) of the Communications Act, passed by Congress in August 1993, to bring tangible opportunities for participation to individuals and entities that are historically precluded from providing

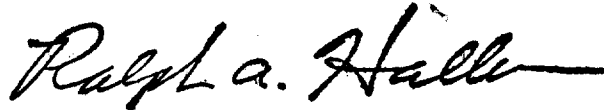
No. of Copies rec'd
List ABCDE

Honorable Sam Nunn

2.

telecommunications services. It has sought to ensure that competition and participation by all segments of society will become the enduring standard for the future. Enclosed is a summary of the Commission's action of June 29. If you would like additional information, feel free to call Julia Kogan of my staff at (202) 632-7125.

Sincerely,

A handwritten signature in black ink, reading "Ralph A. Haller" with a long horizontal flourish extending to the right.

Ralph A. Haller
Chief, PCS Task Force &
Chief, Private Radio Bureau

Enclosure

Congressional

DUE OBC: 7/5/94

CONGRESSIONAL CORRESPONDENCE TRACKING SYSTEM 06/24/94

LETTER REPORT

CONTROL NO.	DATE RECEIVED	DATE OF CORRESP	DATE DUE	DATE DUE OLA(857)
9402893	06/24/94	06/15/94	07/15/94	

TITLE	MEMBERS NAME	REPLY FOR SIG OF
Senator	Sam Nunn	BC

CONSTITUENT'S NAME	SUBJECT
Dave Lasier	auction/lottery IVDS

REF TO	REF TO	REF TO	REF TO
PRB/AMMB 6/27	THH/AMMB		
DATE	DATE	DATE	DATE
06/24/94			

REMARKS: Please reply to the Atlanta, GA office attn of
Corey Anderson

SAM NUNN, GEORGIA, CHAIRMAN

J. JAMES EXON, NEBRASKA
CARL LEVIN, MICHIGAN
EDWARD M. KENNEDY, MASSACHUSETTS
JEFF BINGAMAN, NEW MEXICO
JOHN GLENN, OHIO
RICHARD C. SHELBY, ALABAMA
ROBERT C. BYRD, WEST VIRGINIA
BOB GRAHAM, FLORIDA

STROM THURMOND, SOUTH CAROLINA
JOHN W. WARNER, VIRGINIA
WILLIAM S. COHEN, MAINE
JOHN MCCAIN, ARIZONA
TRENT LOTT, MISSISSIPPI
DAN COATS, INDIANA
BOB SMITH, NEW HAMPSHIRE
BRR KEMPTHORNE, TEXAS

United States Senate

COMMITTEE ON ARMED SERVICES

WASHINGTON, DC 20510-6050

June 15, 1994

ARNOLD L. PUNARO, STAFF DIRECTOR
ANTHONY J. PRINCIPLE, STAFF DIRECTOR FOR THE MINORITY

PRB
Auction

2893

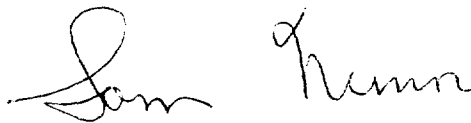
Ms. Laura J. Belvin, Acting Director
Office of Legislative Affairs
Federal Communications Commission
1919 M Street, NW
Washington, D.C. 20554

Dear Ms. Belvin:

I recently received the enclosed inquiry from one of my constituents. Please review the matter thoroughly, in accordance with established policies and procedures, and provide me with a full report.

I look forward to hearing from you in the very near future.

Sincerely,



Sam Nunn

Enclosure

SN/cja

PLEASE REPLY TO:
75 Spring Street, S.W.
Suite 1700
Atlanta, Ga. 30303
Attn: Corey Anderson

David D. Lasier
Chief Executive Officer



June 8, 1994

Commissioner Reed Hundt
Federal Communications Commission
1919 M. St., NW
Washington, D.C. 20554

Dear Commissioner Hundt,

It was indeed a pleasure to meet you at the dinner in Atlanta last night. Encompass is looking forward to participating in the upcoming auctions for broadband Personal Communications Services spectrum. However, as a Small Business actively involved in the telecommunications industry we do not feel we can truly participate without provisions for a SWMR set aside or a significant bid credit. We have met with many parties, Small Businesses, Minorities, and Rural Telephone companies, interested in aggressively pursuing Personal Communications Services in the United States. They all feel a set aside or significant bidding credit (40-50%) in a 30 MHz BTA band is critically important to their success in the auction.

Please find enclosed a copy of our proposed view of the position best suited to allow Small Business, Women, Minorities, and Rural Telephone participation in the upcoming auction process. Your consideration of our position is greatly appreciated. I am enclosing as well an article from The Atlanta Constitution on your visit to Atlanta.

Sincerely,

A handwritten signature in dark ink, appearing to read "D. Lasier", with a long horizontal flourish extending to the right.

Dave Lasier
Chief Executive Officer

DL/kk

Robert E. Gourlay
Vice President



June 8, 1994

Senator Sam Nunn
United States Senate
Washington, D.C. 20510

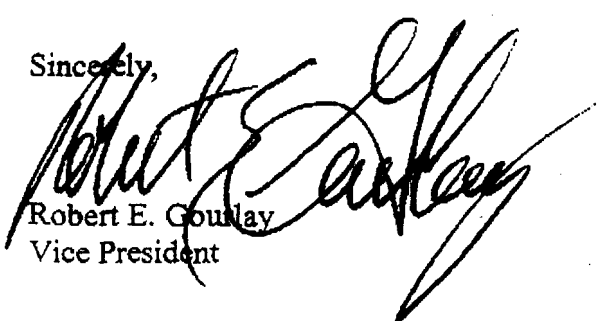
Dear Senator Nunn :

Thank you for your prior support for the role of Small Businesses, Women, Minorities, and Rural Telephone Companies (SWMR) in the evolution of the Information Superhighway. Our company is a small wireless start-up made up of engineering and marketing people very much involved in the pursuit of Personal Communications Services licenses. In November of last year the initial proposed license rules, through the support of yourself and other influential members of Congress, set aside spectrum for Designated Entities. The set aside allowed Encompass and other well positioned companies the opportunity to participate in the telecommunications future of our communities.

We have been lead to believe that in the reconsideration of the license rules Designated Entities such as Small Business will be left out; relegated to only consideration for multi-year payout of our bid at the auction. By these actions Designated Entities will be unceremoniously shown an off ramp on the Information Superhighway. To assure participation of the SWMR companies in the auction process a bid discount of 40-50% must be inserted or a the spectrum set aside must remain in place. We would appreciate your support in any manner of this important initiative.

I am enclosing a copy of a letter to Federal Communications Commissioner Reed Hundt. In it we spell out our concerns about the upcoming auction process. We look forward to hearing from your office regarding your input to the Commission.

Sincerely,


Robert E. Gourlay
Vice President

REG/bg

PCS Technical Considerations

- ◆ Operators will decide the standards, technology, and interoperability
 - ◆ Use of any available technology in the world to deploy
 - ◆ No ANSI requirement that will restrict technology
- ◆ Equal treatment and fair rules for all Wireless Operators
 - ◆ Collection in Central Offices
 - ◆ Numbering (NPA, NXX, 500 Numbers)
 - ◆ Access to numbering system
 - ◆ Access to SS7 signaling and interconnect
 - ◆ LEC can not discriminate on number transactions
 - ◆ Collection on existing towers located on public R/W
- ◆ Cannot be denied access to public R/W and conduit infrastructure
- ◆ Power Limitation on down link up to 1200 watts
- ◆ Universal Policy - no extraordinary council approval or zoning for wireless towers under 30 meters

Proposed Set Aside for SWMR

BTA

- ◆ 20 MHz (minimum) BTA set-aside in lower PCS band for SWMR with associated 10 year installment payments and no interest

Justification

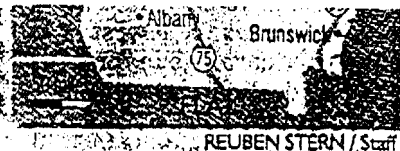
- ◆ Ensures diversity of licensees
- ◆ Encourages new infrastructure and technology investments
- ◆ Expedites new Personal Communication Services
- ◆ Increases auction value of other bands
- ◆ Distributes license costs equitably and eliminates capital advantages as a barrier to entry

Justification for Set Aside

- ◆ Represents a major opportunity for the hundreds of Small, Women and Minority-owned businesses and Rural Telcos
- ◆ Ensures diversity of licensees
- ◆ Encourages new infrastructure and technology investments
- ◆ Expedites new Personal Communication Services
- ◆ Increases auction value of other bands
- ◆ Distributes license costs equitably and eliminates capital advantages as a barrier to entry
- ◆ The risk to interoperability is extremely high without an independent set aside band given the lack of standards, the RBOCs' behavior on digital cellular and their incentives to delay PCS

The severance package, according to company spokeswoman Nancy Young, will be a minimum of two weeks' pay, with more based on seniority and job.

Staff writers Rodney Ho, Dennis McCafferty and Macon Morehouse, as well as Dow Jones News Service, contributed to this report.



REUBEN STERN / Staff

CRISIS

Litigation

When the crisis is over, the lowest possible rate, which means discounts of between 10 and 20 percent off our regular rates.

Atlanta lawyer Rex Veal, who says the FDIC and RTC will "drive a hard bargain" with law firms.

FCC chief favors using his position to aid competition

By Charles Haddad
STAFF WRITER

Is he the guardian angel of telecommunications or the devil himself?

Reed Hundt has been called both since he became chairman of the Federal Communications Commission last November.

On Tuesday, some of Atlanta's business leaders and technology experts got a chance to judge Hundt for themselves.

He met with professors at Georgia Tech and Ted Turner of cable giant Turner Broadcasting System Inc. He also met with Jim Kennedy, chairman of Cox Enterprises Inc., the communications company that announced a deal this week putting it in control of the nation's largest cable TV system. Hundt's agency regulates the broadcast, telephone and cable industries. In February, he imposed cable operators, toughening already tough new regulations.

Hundt hardly looks like the

devil. Tall and patrician in bearing, he was unfailingly polite — even to hostile questioners. He portrayed himself as a reluctant regulator. "This country was built on competition and prizes it," he said in an interview.

Hundt said he wouldn't hesitate to use the government's power to ensure competition. The problem, though, is that the communications industry is not very competitive. For example, only 1 percent of the country's 11,000-plus cable markets have more than one operator.

That may soon change. Digital technology is enabling cable, telephone and new types of companies to compete.

"Five lanes of the information superhighway are already open: wireless, wired, cable, broadcast and satellite," Hundt said. These are all ways people can get information digitally.

To Hundt, this is good. He just wants to ensure two things: That as many people as possible have access to these technologies, and that competition benefits consumers in terms of low prices and good service.



more/ k. Ga. \$1.5 million

What is the Likely Market Structure for PCS?

- ◆ An independent set aside assures a more diverse communications marketplace, increases both wireless and access competition, and creates a band of licensees with market requirements to agree on standards and interoperability.
- ◆ Without an independent set aside band for designated entities, the Big 12 (the RBOCs, GTE, AT&T, MCI, Sprint and Airtouch) will dominate the auctions and utilize their existing cellular technology (dual mode AMPs and either upbanded IS54 or IS95) to extend their cellular and EMSR footprints.

Proposed Ownership Articulation and Control Rules

- ◆ **≥ 50.1% Ownership and Equity by License Holder (General Partner).**
- ◆ **≥ 20.0% Control of the Operating Business (Limited Partnership).**
- ◆ **Equity, Not Debt, Used to Determine Ownership Interest. Exempt Convertible Debt that Cannot Convert for at Least 5 Years.**
- ◆ **SWMR has full access to any line of credit available commercially or privately.**

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

IN REPLY REFER TO:

7310-09/1700A

Honorable Sam Nunn
United States Senator
75 Spring Street, S.W.
Suite 1700
Atlanta, Georgia 30303

Dear Senator Nunn:

This letter is in response to your letter of June 15, 1994, regarding the letter of your constituent, Mr. Robert E. Gourlay. His letter specifically addressed the need to ensure that licenses for broadband Personal Communications Services (PCS) are disseminated among a wide variety of applicants, including small businesses, rural telephone companies, and businesses owned by minorities and women.

At its June 29, 1994 agenda meeting, the Commission adopted service-specific rules for broadband PCS, including a "Competitive Opportunity Plan" that establishes two "entrepreneurs' blocks" for smaller businesses. These blocks together consist of 986 licenses, which will be authorized for operations within Basic Trading Areas (BTAs). Eligibility for these blocks will be limited in order to safeguard for small businesses, including those owned by minorities and women, the ability to participate in the auctions without competition from the largest of companies. Within the entrepreneurial blocks, the Commission established a range of provisions to address the most challenging barrier to entry by designated entities -- that is, access to capital. These provisions include bidding credits, installment payment plans, tax certificates and relaxed attribution standards for small businesses and businesses owned by minorities and women. For example, within the entrepreneurs' blocks, businesses with less than \$40 million in gross revenues for the three preceding years (including revenues of their affiliates) are eligible for bidding credits of 10 percent, and small businesses owned by women or minorities are eligible for bidding credits of 25 percent. In addition, bidders in the entrepreneurs' blocks will receive a 25 percent discount from the ordinary upfront payment. Furthermore, most winning bidders within the entrepreneurs' blocks may pay for their licenses in installments, thus deferring payments of principal on their debt to the government. In addition, the Commission recently proposed a similar Competitive Opportunity Plan for the auctions that will award certain regional narrowband PCS licenses.

The Commission also established rules permitting rural telephone companies to obtain broadband PCS licenses that are geographically partitioned from larger PCS service areas. Rural telephone companies: (1) may form bidding consortia to participate in auctions, and then partition the licenses won among consortia participants, or (2) may acquire partitioned broadband PCS licenses from other licensees through private negotiation and agreement either before or after the auction.

The Commission has sought to implement the Congressional intent of Section 309(j) of the Communications Act, passed by Congress in August 1993, to bring tangible opportunities for participation to individuals and entities that are historically precluded from providing

Honorable Sam Nunn

2.

telecommunications services. It has sought to ensure that competition and participation by all segments of society will become the enduring standard for the future. Enclosed is a summary of the Commission's action of June 29. If you would like additional information, feel free to call Julia Kogan of my staff at (202) 632-7125.

Sincerely,

Ralph A. Haller
Chief, PCS Task Force &
Chief, Private Radio Bureau

Enclosure